

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 7998 of 2011

ORDER:

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Heard learned counsel for the petitioners, learned Government Pleader for Revenue and learned counsel appearing for the sixth respondent. With the consent of all the parties, the writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of a writ of mandamus declaring the orders of the second respondent vide proceedings No.D.Dis (E10) 8701/2005 dated 21.05.2010 by confirming the orders of the third respondent dated 15.02.2010 by directing the petitioners to file a civil suit with regard to the patta No.7 and 165 situated at Vedicherla Village, Gudur Mandal, Nellore District, as illegal, arbitrary and without verifying the revenue records; and consequently set-aside the same by directing respondent Nos.5 to 8 to prefer a civil suit for declaration of their rights if any with regard to the above pattas.

The short point that arises for consideration is that whether an appeal would lie against the order for issuance of pattadar pass books under Section 5 (5) of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short "the Act").

The issue is no more *res integra* in view of the judgment of this Court in W.P.No.21689 of 1999, wherein a Division Bench of this Court held as under:

"It is well settled that the right of appeal must find its source in legislative authority. The right of appeal accrues to the litigant when it is expressly provided for in the statute and axiomatic that the right of appeal is a

substantive right and must be conferred by a statute. As already held, appeal is provided for against the original proceedings or substantive determination under Sections 4,5 and 5-A of the Act. The Legislature in its wisdom and noticing the purpose of issuing PPB/TD did not provide right of appeal against mere issuance of PPB/TD under Section 6-A of the Act. Therefore, on the literal construction of Sections 3 to 6-A of the Act, it can be held that the remedy of appeal under Section 5 (5) of the Act is not provided against the issuance of PPB/TD under Section 6-A of the Act. By treating the action under Sections 5 and 6-A of the Act as single or mutually dependent, in our considered view, the remedy of appeal against mere issuance of PPB/TD under Section 6-A of the Act is not available.”

In view of the judgment referred to above and having regard to the facts and circumstances stated above, the writ petition is disposed of, giving liberty to respondent Nos. 5 to 8 to avail the remedies available under the Act. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

**JUSTICE C. PRAVEEN
KUMAR**

26.08.2015

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